IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

FRANCIS BERNARD SMITH,)
Plaintiff v.) No. 3:09-mc-0047) JUDGE HAYNES
LATONYA NICOLE BLAKELY)
Defendant.)

ORDER

Plaintiff, Francis Bernard Smith filed this <u>pro se</u> action under 42 U.S.C. §1983 against the Defendant LaTonya Nicole Blakely, a private citizen. Plaintiff alleges that she paid \$3,500 of the total of \$4,324 for the purchase of a motor vehicle for which the Defendant is a co-signer. Plaintiff alleges that she used the vehicle for bond purposes, but the Defendant has the vehicle. Plaintiff seeks a refund of her contribution of the purchase price and a release of the vehicle to the Defendant.

To state a claim under 42 U.S.C. §1983, the Defendant must act under color of state law.

Dennis v. Sparks, 449 U.S. 24, 26 (1980). There are not any facts alleged that would in any way suggest that the Defendant acted other than as a private citizen. Accordingly, this action is

DISMISSED without prejudice for lack of subject matter jurisdiction.

This is the Final Order in this action. Any appeal of this Order of this Order would not be in good faith as required by 28 U.S.C. §1915(a)(3).

It is so **ORDERED**.

ENTERED this the 91 day of April, 2009.

United States District Judge